

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Spring Dale Post Office	
Spring Dale, WV, 25986	

Document Number: A2012-68

REPLY BRIEF OF PETITIONER PAUL MCCLUNG
(January 24, 2012)

Respectfully submitted,

Paul McClung
P.O. Box 75
Spring Dale, WV 25986
(304) 484-7653
deedplot@ggmap.com

INTRODUCTION

I, Paul McClung, Petitioner in regard to pending closure of the Spring Dale, WV, Post Office, respectfully submit this Reply Brief in answer to comments made by The United States Parcel Service (USPS) and filed late with the Postal Regulatory Commission on January 11, 2012.

My reply to their comments is forced due to the unjustifiable and inaccurate attempts made by the USPS to undermine creditability of all the Petitioners, their sources, and the data submitted by all who filed a petition on behalf of the Spring Dale Post Office.

The entire body of USPS comments are copied-and-pasted diversions combined with misleading information, designed for destruction of the facts

For the USPS to burden the Petitioners and the PRC by filing these comments simply adds to the massive layers everyone must sort through. Their hope, no doubt, is to endlessly renew their inaccurate rhetoric so as to make it fresh on the Commissioners' minds. In reality, the bulk of the comments are a 100% rehash of bureaucratic boilerplate statements already in the Administrative Record.

We, the lay public, are forced to defend our post offices from attorneys and those others who, by default, are considered expert. In our case, the USPS, with no shame or embarrassment for its enormous advantage, casually submitted a motion (January 11, 2012) for late acceptance of USPS comments. (The reason being they were busy, and even worse, "*a reassignment in counsel responsible for representing the Postal Service in this appeal.*") The USPS has summoned every ounce of its oppressive might to zealously bring forth an attorney for battle with the citizens of this small rural community. The USPS is determined to have its way.

REPETITIVE STATEMENTS BY USPS

The first four pages of the "*United States Postal Service Comments Regarding Appeal*" (hereinafter referred to as Comments) are nothing more than a lackluster response to a well organized rural community which has good reason to protect its rural post office. Just a few of the issues purposely avoided in these four pages are:

1. No effort or attempt to consider the viable alternatives we have offered as to reducing the deficit. This includes the building/lease costs and wages.
2. Ignoring our own investigation as to the supposed 32 minutes of retail workload.
3. The Meadow Bridge Post Office not having enough post office boxes to accommodate Spring Dale customers.
4. The Meadow Bridge Post Office being much more overloaded when the 130 customers who have P.O. boxes in Spring Dale (combined with those who use Spring Dale often but do not have P.O. boxes) must do business there. Additional overloading will occur when other post offices in the area close. Some of these future closures will increase revenue at Spring Dale.

The comments on page four indicate a declining population trend, but the 2000 vs. 2010 census trend indicates a change of population of three people. Spring Dale is not incorporated and, as a person who surveyed boundary lines here for decades, even I don't know the "city limits." Neither does anyone else, but we do know that more people regularly use the post office than are listed in the census.

The comment on page four concerning expected savings is also beyond comprehension. We have shown errors on USPS calculations and have offered alternatives. The entire deficit, even if left as is, at this post office is laughable. The entire nationwide projected savings in closing more than 3600 post offices is less than one percent.

EFFECT ON POSTAL SERVICES

This is another repetition of USPS contentions found, not only in our official record, but additionally (and in identical format) in records nationwide. The USPS blandly states they have considered our concerns relating to inclement conditions. Where? I respectfully request a reasonable explanation. There is not a realistic answer in their replies to the customers, the official record, or elsewhere. Their answer is a short statement of "Each of these concerns was considered by the postal service." How does a community defend itself against such a baseless, factless answer?

On page six, USPS explains how customers will not need to travel to other post offices for most retail service. We demonstrated this to be untrue in several of our replies during the proposal phase. Again, any reasonable person can search the USPS replies and never find a realistic answer for me and other business customers. We offered evidence that several of our businesses cannot be adequately served by a carrier. There has never been an even remotely competent answer to this.

During the public meeting, a business customer brought some of the documents he needed mailed and asked the USPS representative how his postal needs could be handled by a carrier. The representative's answer was, they could not. The customer also explained why using the Meadow Bridge Post Office was not a practical solution for him. The representative agreed, but the entirety of page six is worded as though such situations never arise or have easy solutions.

It is suggested that, IF Internet access is available certain remedies would be available. The first problem is that Internet service is not generally available. The second is that, for many customers, Internet services are not a solution even if they were available. The USPS has been advised for ten months that there is no Internet access for most Spring Dale customers, but they have no reason to listen. Their minds were made up January 31, 2011.

The USPS comments advise us (again) that we can continue P.O. Box service at Meadow Bridge, if preferred. For some, it would be necessity, but never preferred. The USPS should send a survey to the current customers at Meadow Bridge and ask them their opinion of the Meadow Bridge Post Office, and how it compares to service a few years ago. I believe a significant number of customers could immediately explain why we may prefer to avoid it.

I will, at this point, not burden the Commission with repetitive dialogue on this particular issue and request reference be made to the Administrative Record for our adequate and thorough rebuttals.

EFFECT ON THE SPRING DALE COMMUNITY

The public is encouraged to speak out, but when they do so, they are dismissed as emotional. Our only defense is the PRC.

What are the criteria used by USPS (pages 8 and 9 of comments) as related to, *“The Postal Service is obligated to consider the effect of its decision to close the Spring Dale Post Office upon the Spring Dale community?”*

There is no guideline that is objective and without bias for the USPS to make that decision. There is no precedent. However, we all see a PRC website packed with cases wherein this type of statement is repeatedly used adversely nationwide by USPS. How could that be statistically possible? The sheer volume of new closures and pending closures show beyond doubt that 39 U.S.C. § 404(d)(2)(A)(i) is abused and ignored. There are 31 local post offices affected just in the round of closures that include us. What is the probability that ALL of these had no legitimate protection relative to effect on the community?

The comments concerning minimal impact on the community could only be made by those who have never actually considered a single response we submitted. We are considered to have 88 boxes, yet this small rural community caused the public record to contain 554 pages! Considering that the Administrative Record has voluminous evidence on our behalf, how does the USPS contend, *“Thus, the Postal Service has met its burden, as set forth in 39 U.S.C. § 404(d)(2)(A)(i), by considering the effect of closing the Spring Dale Post Office on the community served by the Spring Dale Post Office?”*

The following quote by USPS (on page 9 of comments) reads, *“The questionnaires completed by Spring Dale customers indicate that, in general, the retirees, self-employed persons, commuters, and others who reside in Spring Dale may travel elsewhere for work and for other supplies and services.”*

NOT TRUE! Reference to customer input as included in the Administrative Record contradicts the sterile implication that customers are traveling elsewhere on a daily basis. Many of our customers do not travel outside the area due to age, gasoline prices, health issues, weather, and other circumstances. We have mentioned instances wherein some customers walk to the post office and cannot drive due to seizures etc.

While pretending to be compassionate and open to all the legal rights the public should have, the bridled eye of the decision makers see only the distance between

post offices, any deficit, postmaster vacancy, and a misleading local decline of revenue/windows time. Sadly, they do not even see these issues in perspective.

ECONOMIC SAVINGS

The Comments by USPS concerning economic savings (pages 10 &11) are so unprofessional that they, in themselves, should undermine the integrity of the closure documents and the comments provided in their support.

The USPS employee who was the major contributor to the entire closure process had only three weeks experience when he gained his position as review coordinator. Though my association with him by phone causes me to respect him generally, someone in his office should have examined our qualifications before speaking of economic savings. I quote, "Petitioners, however, provide no evidence of expertise in any of the fields or estimates calculated by them, nor do they provide any separate verification of their estimates." It is quite a stretch for anyone to make that statement.

I have a formal education in engineering and have been involved in estimating. More importantly, Mr. Gary Walker had provided two letters concerning costs on his company letterhead. Mr. Walker has a business degree that included estimating classes. As can be seen, Mr. Walker works for a large construction company as an estimator. He recently submitted his workup for a bid of \$31,000,000. He routinely estimates labor, mobilization, materials, transportation costs, and other factors far beyond the expertise of any USPS employee involved in these estimates. Would it not be reasonable to assume that an experienced estimator who has always lived in Spring Dale would be able to determine carrier distances and other costs better than those not familiar with the proposed route and other vital factors?

This is symptomatic of the entire argument by USPS for closure. It is the same intimidation used to minimize our efforts generally. It is an indicator of a government agency stubbornly refusing to hear the people. It shows that, in general, the USPS discredits customer input aggressively and with disregard to facts or law.

It follows that the USPS comment, "Thus, the conclusion that replacement service by rural route service would lead to significant savings is sound" is seriously flawed.

It is very telling that all of our other suggestions relative to economic savings are ignored here.

Again, there is no response to other factors, including leasing costs. These matters bring more evidence of an extremely biased agency that is determined to not hear or respect the people.

EFFECT ON EMPLOYEES

The Petitioners express concern about loss of employment in the community. The Postal Service understands and is sympathetic to this concern, but is also charged with responsibility to promote efficiency of operations. Consequently, this concern does not outweigh the other considerations cited in support of the FD. Therefore, in making the determination, the Postal Service considered the effect of the closing on the employees at the Spring Dale Post Office, consistent with its statutory obligations. *See* 39 U.S.C. § 404(d)(2)(A)(ii).

No, the USPS certainly does not understand and is not sympathetic to this concern. There is a legal avenue for the postal service to demonstrate its concern. Action speaks much louder than words. There could not be a more efficient post office than the one in Spring Dale. Customers are cared for, costs are minimized, expenses are low. How could a carrier route compare favorably?

PROCEDURAL ISSUES

This topic begins on page 12 of the comments with a copy and paste (again) of the unsubstantiated reasons that the postal service will provide effective and regular service after closing the Spring Dale Post Office. I respectfully request the Commissioners look at our many and varied responses that have been ignored. This need not be readdressed here.

In regard to the USPS comments pertaining to question #3 of the transaction survey form, I, again, respectfully request the Commission see our evidence. It is provided on page 17 of the Initial Brief as submitted December 19, 2011, by Paul McClung.

While ignoring every fact we have provided concerning the public meeting, the USPS, in one single paragraph, makes three statements concerning that meeting that are collectively incriminating.

1. "The Postal Service also hosted a community meeting to further discuss the issues that brought in a full-capacity crowd. Customers' questions were addressed at the community meeting by the Postal Service representative."
2. "Other than Petitioners' conclusory statements, there is no indication in the record of a lack of proper process or procedure."
3. "Local field personnel further could not even predetermine the outcome, because the final determination was approved at Headquarters upon review of the information compiled in the administrative record. Furthermore, when it was brought to the Postal Service's attention that a document was missing from the record, the Postal Service addressed this concern by responding directly to the customers and amending the record to reflect this oversight."

The inconsistency of these three quotes can be further realized as follows: In a letter of response to our attorney, the USPS suggested conduct and procedures at our public meeting were not adequate, and then added that it did not matter because we had the opportunity to express our views in writing. (Our views pertaining to the meeting were in our missing document.) Then when the most important part of our written response was known to be missing from the record, the USPS reverses itself by claiming we had opportunities to address our concerns during the open meeting??? The USPS response is atrocious. It is very difficult to respond to such a ludicrous misrepresentation of the facts when the very document that accurately reveals what occurred during the meeting is simply brushed away in their conflicting comments. Please see Open Meetings Violation topic on pages 5-7 of the Initial Brief filed by Paul McClung, this Petitioner. The missing document and details of its loss can be found on pages 8-13 of the Initial Brief file by Paul McClung (this petitioner)

SUMMARY

The entirety of comments are so misleading that it boggles the mind to make an intelligent response. There is page after page of nothing more than a desperate attempt to discredit the petitioners by rehashing the original position of the USPS, by misconstruing our appeal statements, and by stating as fact that such closing is consistent with the policy to provide a maximum degree of effective and regular postal service to rural areas. There is a 554 page document that has already presented these arguments and our defense. Why should it all be repeated here?

Even if we limit ourselves to USPS comments, there remains a pattern which reveals a predetermined conclusion to close this post office while disregarding all opposing factors.

The comments made by USPS in response to our Petitions are clearly designed to divert attention away from the sound reasons we have provided in the defense of our post office.

As evidenced in the topics concerning estimating, procedural issues, and elsewhere, the USPS comments are shown to be inaccurate and made with extreme bias.

The USPS has demonstrated negligence, diversion, misinterpretation, errors, and unethical behavior. Simply reprimanding them has been tried before with no success. I again respectfully request that the entirety of our response be considered.

There is ample evidence that, at a minimum, we should receive the dignity of reconsideration in regard to closure of the Spring Dale Post Office.

Respectfully,

Paul McClung, Petitioner
P.O. Box 75
Spring Dale, WV 25986